

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOHN DEWAYNE BARNES,

Case No. 2:18-cv-00168-RFB-GWF

Plaintiff,

V.

ORDER

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT DETENTION SERVICE
DIVISION, *et al.*,

Defendants.

This matter is before the Court on Plaintiff's Motion for Service on Doe Defendant (ECF No. 12), filed on February 21, 2019. Also before the Court is Plaintiff's Motion to Identify John Doe (ECF No. 13), filed on March 5, 2019.

On December 27, 2018, the Court issued its screening order and dismissed Defendants Lombardo and the Las Vegas Metropolitan Police Department Detention Service Division (“LVMPD”). *See* ECF No. 3. The Court, however, held that Count I alleging due process based on a property interest and Count II alleging due process based on a liberty interest will proceed against Defendant John Doe #6453. *Id.* The Court further instructed the Clerk of the Court to issue summons for Defendant Whetsel and deliver same to the U.S. Marshal for service. *Id.* Plaintiff requests that the Court serve the doe defendant and to instruct the defendants to identify Defendant “John Doe #6453.” Plaintiff represents that Defendant John Doe #6453 is an officer with LVMPD.

Generally, the use of “John Doe” to identify a defendant is not favored. *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980). However, where the identity of alleged defendants will not be known prior to the filing of a complaint, the plaintiff should be given an opportunity through discovery to identify the unknown defendants, unless it is clear that discovery would not uncover the identities, or that the complaint would be dismissed on other grounds. *Id.* See also

1 *Cameron v. Cty. of Clark Nevada*, 2018 WL 2304037, at *3 (D. Nev. May 21, 2018). Plaintiff,
2 therefore, is permitted to conduct limited pre-service discovery according to the Federal Rules of
3 Civil Procedure to ascertain the true identity of the officer that is identified as John Doe #6453 in
4 his complaint. After the LVMPD has identified the doe defendant, Plaintiff may file a renewed
5 motion to direct service to the doe defendant through the U.S. Marshal's Office. The Court,
6 therefore, denies Plaintiff's motions according to the provisions herein. Accordingly,

7 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Service on Doe Defendant (ECF
8 No. 12) is **denied**, without prejudice.

9 **IT IS FURTHER ORDERED** that Plaintiff's Motion to Identify John Doe (ECF No. 13)
10 is **denied**.

11 Dated this 28th day of March, 2019.

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14 GEORGE FOLEY, JR.
15 UNITED STATES MAGISTRATE JUDGE